IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISCELLANEOUS APPLICATION NOS.175,176 AND 177 OF 2003

CRIMINAL MISCELLANEOUS APPLICATION NO.175 OF 2003

Shri Jaidev Vaman Raval,
@ Deepak Pandurang Malvankar,
ageed 32 years, married,
service, resident of Talewada,
Narvem, Bicholim, Goa.
(At present in Judicial
Custody at Panaji, Goa)
through Next friend
Shri Babi Vaman Raval
major, married, resident of
Talewada, Narvem, Bicholim,
Goa. ... Applicant.

versus

1. The State
   represented by P.I.
   Bicholim Police Station,
   Bicholim, Goa.

2. The Public Prosecutor
   Panaji, Goa. ... Reespondent.

CRIMINAL MISCELLANEOUS APPLICATION NO.176 OF 2003

Shri Prashant Vaman Raval,
aged 28 years, married,
service, resident of
Talewada, Narvem, Bicholim,
Goa.
(At present in the Judicial
Custody at Panaji, Goa)
through next friend

Shri Babi Vaman Raval,
major, married, resident of
Talewada, NArvem,
Bicholim, Goa. ... Applicant.

versus

1. The State
represented by P.I.
Bicholim Police Station,
Bicholim, Goa.

2. The Public Prosecutor
Panaji, Goa. ... Respondents.

CRIMINAL MISCELLANEOUS APPLICATION NO.177 OF 2003

Shri Sanjeev Vaman Raval,
aged 24 years, unmarried,
service, resident of
Talewada, Narvem, Bicholim,
Goa.
(At present in Judicial
Custody at Panaji, Goa)
through next friend
Shri Babi Vaman Raval,
major, married, resident
of Talewada, Narvem,
Bicholim, Goa. ... Applicant.

versus

1. The State
represented by P.I.
Bicholim Police Station,
Bicholim, Goa.

2. The Public Prosecutor,
Panaji, Goa. ... Respondents.

Mr. Devanand P. Shetkar, Advocate for the Applicants in all the three applications.

Mr. S. N. Sardessai, Public Prosecutor for the State in all the three applications.

CORAM: P. V. HARDAS, J.

DATED: 8TH AUGUST, 2003.

ODAL ORDER

The Applicants in these applications are Accused in Sessions Case No.15 of 2003 pending on the file of the Ist Additional Sessions Judge, Panaji. Since the Applicants are the Accused in the said Sessions Case and due to the similarity of facts, all the three applications are being decided by this common Order.

2. Crime No.60 of 2003 came to be registered by the Bicholim Police Station initially for an offence punishable under Sections 307, 504 and 506 r/w 34 of the Indian Penal Code on the basis of an F.I.R. lodged by one Narayan Ganesh Malwankar, complaining therein of an assault on his brother Suresh Ganesh Malwankar and one Ranganath Bhingi. Ranganath Bhingi succumbed to his injuries and, therefore, an offence under Section 302 of the Indian Penal Code was added. Ranganath Bhingi had suffered in all about 22 injuries and the doctor had opined that he had died due to haemorrhagic shock associated with the fracture of the leg and the other injuries. Injured Suresh Malwankar has also received multiple lacerations on thigh, leg, scalp and

abrasions all over the body and haematoma on thigh and compound fracture/crushed bone of upper limb and lower limb on leg. The allegation of the prosecution is that the Accused in furtherance of their common intention by means of iron rods and wooden sticks assaulted the deceased and injured Suresh Malwankar. During the course of investigation, the weapons of the assault have been recovered at the instance of the Accused.

3. The learned ist Additional Sessions Judge, Panaji, before whom an application for Bail was moved by the Applicants/Accused, examined the material available against the Applicants/Accused and declined to grant Bail to the Applicants/Accused on the grounds of existence of strong prima facie case against the Applicants/Accused and the possibility of the Applicants/Accused tampering with the prosecution witnesses. Hence, these applications by the Applicants/Accused before this Court.

4. With the assistence of the learned Counsel for the Applicants/Accused and the learned Public Prosecutor for the Respondents, I have perused a copy of the charge-sheet which has been made available to me. Apart from the injured Suresh Malwankar, one Nitesh has been cited as an eye witness to the

incident. Injured Suresh Malwankar in his statement referred to the names of all the Applicants/Accused. The F.I.R also contains a reference of the Accused as the assailants. The deceased had received 22 injuries virtually all over his body including his head. The injured Suresh Malwankar has also received grievous injuries including fracture of his leg. The weapons of assault have been recovered by the Police at the instance of the Applicant/Accused. Thus, there exists a strong prima facie case and in such situations, the Applicants/Accused are not entitled to be released on Bail. It has been urged before me that the apprehension of the prosecution that the Accused would tamper or influence the prosecution witnesses is wholly unfounded and the apprehension of the prosecution can be allayed by putting the Accused to strict conditions in view of the strong prima facie case.

5. In view of the existence of strong prima facie case merely putting the Accused to certain strict terms and conditions would not serve to allay the apprehension of the prosecution which at this stage cannot be said to be unfounded.

6. In view of the existence of a strong prima facie case against the Applicants/Accused, I am not inclined to grant Bail to the Applicants/Accused and

accordingly the learned ist Additional Sessions Judge, Panaji was right in declining to grant Bail to the Applicants.

7. In view of this, Criminal Miscellaneous Application Nos. 175, 176 and 177 of 2003 are dismissed.

P. V. HARDAS, J.

RD.